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FM AMEMBASSY COLOMBO  
TO RUEHC/SECSTATE WASHDC 5923  
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RUEHNE/AMEMBASSY NEW DELHI 0891  
RUEHKA/AMEMBASSY DHAKA 0057  
RUEHIL/AMEMBASSY ISLAMABAD 7038  
RUEHKT/AMEMBASSY KATHMANDU 5123  
RUEHKP/AMCONSUL KARACHI 2181  
RUEHCG/AMCONSUL CHENNAI 7613  
RUEHBI/AMCONSUL MUMBAI 5313  
RUEHGV/USMISSION GENEVA 1987  
RUEATRS/DEPT OF TREASURY WASHDC  
RUEHLMC/MILLENNIUM CHALLENGE CORPORATION

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STATE FOR SCA/INS AND EEB/IFD/ODF  
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TAGS: [EINV](#) [ENRG](#) [PREL](#) [CE](#)

SUBJECT: SRI LANKA: AMBASSADOR URGES MINISTER OF POWER AND ENERGY TO  
POST MISSING LETTERS OF CREDIT FOR AES POWER PLANT

REF: 14SEPT2006 MERRIN-DAUGHTRY/GOWER EMAIL OF 2006 COLOMBO REPORT  
ON INVESTMENT DIPUTES

¶1. (SBU) Summary: U.S. company AES, operating a 163 megawatt power plant in Sri Lanka since 2003, has never received two contractually-required letters of credit from the state-owned Ceylon Electricity Board as protection against non-payment of AES's fuel costs. Ambassador, joined by AES project director, urged Power and Energy Minister Seneviratne to resolve the issue, which has prevented AES from distributing dividends to its investors. The Minister agreed that the electricity board, which he supervises, was obligated to deliver the letters of credit and said he would attempt to overcome obstacles put up by the board and the state-owned People's Bank. End summary.

¶2. (SBU) Ambassador Blake called on Minister of Power and Energy John Seneviratne April 25 to attempt to resolve an outstanding contract issue involving U.S. investor AES Kelanitissa (Private) Limited. AES project director Shahid Khan and Econoff were also present. AES's \$104 million, 163 megawatt combined cycle power plant in Colombo's Kelanitissa neighborhood has been in operation since 2003 and is the largest U.S. infrastructure investment in Sri Lanka. AES's power purchase agreement with the state-owned Ceylon Electricity Board (CEB) called for CEB to post two letters of credit to protect AES against possible non-payment of CEB-reimbursable fuel and operating costs. CEB has never posted the letters of credit, though it does not dispute its obligation to do so. It blames the state-owned People's Bank for being unwilling to write the letters of credit.

¶3. (SBU) Ambassador began by telling Minister Seneviratne that American companies frequently ask about the investment environment in Sri Lanka; they would surely do so next week when Ambassador would join Sri Lankan officials to describe offshore oil exploration prospects at a major conference in Houston. The CEB's failure to post the required letters of credit "sends bad signals to companies thinking of investing in Sri Lanka," the Ambassador said. He hoped that Seneviratne, whose ministry oversees the CEB, would help rectify the problem and thereby show that the Government of Sri Lanka respected the sanctity of its contracts.

¶4. (SBU) Khan added that AES had been patient, waiting for over three years for the letters of credit. But, their non-payment was technically a default under the power purchase agreement. As a

result, AES's lenders, including the Asian Development Bank and ANZ Investment Bank, have blocked AES from distributing dividends to investors. AES understood that the CEB's weak financial position was part of the reason that People's Bank had withheld the letters of credit. (Note: The CEB operates at a loss due to government caps on electricity tariffs.) To make it easier for CEB, AES would accept CEB initially posting only a U.S. dollar letter of credit for \$4.2 million. A second letter was due for the Sri Lankan Rupees equivalent of \$55 million, but AES would be willing to accept a \$15 million letter instead, and could wait longer for it.

15. (SBU) Minister Seneviratne said he had been unaware of the problem, but acknowledged that CEB was contractually obligated to post the letters of credit. He called a Secretary-level subordinate into his office and asked him to check into the matter. Following this phone call, the minister informed the Ambassador and Khan that he would "summon" the chairman of People's Bank, who, as the CEB's banker, should do what CEB asks. If not, the Minister said, CEB should get another bank to issue the letters.

16. (SBU) Comment: The minister's intervention looks promising, and reinforces Post's and Khan's judgment that this issue was unlikely to be resolved unless elevated to the ministerial level. Post will report further developments, as well as in the matter of the \$3 million debt that CEB owes to AES for power AES produced under a contract separate from its original power purchase agreement (ref email). For now, AES has decided to pursue the letters of credit, which it believes it is more likely to get and which are more important because they would permit AES's investors to begin seeing returns on their investments.

BLAKE